

**Memorandum of Decision: 01-20210079R
Indiana Individual Income Tax
For the Years 2013, 2014, and 2015**

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HOLDING

The Department erred when it determined that Indiana Individuals' refund request was untimely filed; to the extent that the Department found that the refund request was filed outside the three-year statute of limitations, Individuals' protest was sustained.

ISSUE

I. Indiana Individual Income Tax - Statute of Limitations.

Authority: IC § 6-8.1-1-4; IC § 6-8.1-6-1; IC § 6-8.1-9-1; [45 IAC 15-9-2](#).

Taxpayers argue that the Department erred in denying them a refund of income tax because Taxpayers maintain that the refund claims were filed within the statute of limitations.

STATEMENT OF FACTS

Taxpayers are Indiana individuals who filed an original 2015 income tax return. In that return, Taxpayers sought a refund of approximately \$45,000.

The Indiana Department of Revenue ("Department") reviewed Taxpayers' return and denied the refund. In a letter dated January 2021, the Department explained the reasons the refund was denied.

Indiana Code 6-8.1-9-1(a) requires that a claim for refund of excess withholding or estimated payments must be filed within a 3-year period in order to be refunded excess withholding or estimated payments. This 3-year period generally begins on the due date of the tax return that should have been filed for the period in question. Your claim requesting the refund was not received before the 3-year period had expired. Therefore, your claim for refund in the amount of [\$45,000] has been denied.

Taxpayers disagreed with the Department's decision denying the refund and submitted a protest to that effect. An administrative hearing was conducted by telephone during which Taxpayers' representative explained the basis for the protest. This Memorandum of Decision results.

I. Indiana Individual Income Tax - Statute of Limitations.

DISCUSSION

The one and only issue addressed in this Memorandum of Decision is whether Taxpayers have established that the Department was wrong when it found that Taxpayers' refund request was submitted outside the three-year statute of limitations.

In general, if any taxpayer believes that he or she has overpaid the tax, the taxpayer is required to timely file a claim for a refund with the Department. Specifically, IC § 6-8.1-9-1(a), in relevant part, states:

If a person has paid more tax than the person determines is legally due for a particular taxable period, the person may file a claim for a refund with the department. Except as provided in subsections (f) and (g), in order to obtain the refund, the person must file the claim with the department within three (3) years after the later of the following:

(1) The due date of the return.

(2) The date of payment.

For purposes of this section, the due date for a return filed for the state gross retail or use tax, the gasoline tax, the special fuel tax, the motor carrier fuel tax, the oil inspection fee, or the petroleum severance tax is the end of the calendar year which contains the taxable period for which the return is filed. **The claim must set forth the amount of the refund to which the person is entitled and the reasons that the person is entitled to the refund. (Emphasis added).**

Additionally, "If the Internal Revenue Service allows a person an extension on the person's federal income tax return, the corresponding due dates for the person's Indiana income tax returns are automatically extended for the same period as the federal extension, plus thirty (30) days." IC § 6-8.1-6-1(c).

[45 IAC 15-9-2](#) further explains, in relevant part, that:

(b) The department has no legal method of generating a claim for refund. A claim for refund can only be initiated pursuant to [IC 6-8.1-9-1](#).

...

(d) When filing a claim for refund with the department the taxpayer's claim shall set forth:

- (1) the amount of refund claimed;
- (2) a sufficiently detailed explanation of the basis of the claim such that the department may determine its correctness;
- (3) the tax period for which the overpayment is claimed; and
- (4) the year and date the overpayment was made.

The claim for refund shall be filed on a form prescribed by the department. **(Emphasis added).**

Thus, when a taxpayer determines he or she overpaid tax - for example in a situation such as that explained by Taxpayers - the taxpayer must timely file the refund claim stating the overpayment as prescribed by the Department in order to claim that refund. IC § 6-8.1-9-1(a); [45 IAC 15-9-2](#). The taxpayer also must clearly state "the amount of the refund," "detailed explanation of the basis of the claim such that the department may determine its correctness," "the tax period for which the overpayment is claimed," and "the year and date of the overpayment." [45 IAC 15-9-2](#)(d); IC § 6-8.1-1-4.

Taxpayers explained that they filed the 2015 return (originally due April 15, 2016) on December 15, 2020. Taxpayers explained that this return sought refunds of payments made in 2020; specifically, on November 13, 2020, November 25, 2020, and December 31, 2020. To that end, Taxpayers supplied copies of certified mail receipts reflecting those dates.

According to Taxpayers, the December 30, 2017 payment was made 1,050 days before the late filed 2013 return, requesting the refund was filed on November 13, 2020. Based on the Department's records, that payment was postmarked January 2, 2018.

According to Taxpayers, the December 31, 2017 payment was made 1,061 days before the late filed 2014 return was filed on November 25, 2020. Based on the Department's records, that payment was postmarked January 2, 2018.

According to Taxpayers, the second December 31, 2017 payment was made 1,080 days before the late filed 2015 return, requesting the refund, was filed on December 15, 2020. Based on the Department's own records, that payment was also postmarked January 2, 2018.

Based on the Department's postmarked records, the late filed returns were submitted as follows; for 2013, November 13, 2020; for 2014, November 24, 2020; for 2015, December 11, 2020.

Again, based on the Department's records, 1,046 days (2 years 10 months) passed between the time Taxpayers paid the 2013 tax and the date they filed the return; 1,057 days (2 years 10 months) passed between the time Taxpayers paid the 2014 tax and the date they filed the return; 1,074 days (2 years 11 months) passed before the time Taxpayers paid the 2015 tax and the date they filed the return.

Therefore, whether using the dates Taxpayers supplied or the dates represented in the Department's own records, the refund amounts indicated in the returns were, under the three-year statute of limitations, timely.

Taxpayers have provided documentation establishing that the refund requests were submitted on or before the three-year statute of limitations expired because the refunds were requested within three-years of the date the taxes were paid as set out in IC § 6-8.1-9-1(a)(2).

Taxpayers were correct in arguing that the refund request was timely filed. On the sole issue of the timeliness of the request, Taxpayers' protest is sustained.

FINDING

To the limited extent described in this Memorandum of Decision, Taxpayers' protest is sustained.

April, 2021

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